

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

IN RE:
JOHN & DESIREE GARCIA
DEBTORS

CHAPTER 13 PROCEEDING:
09-20338-C-13

TRUSTEE'S MOTION TO DISMISS

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

IF A PARTY REQUESTS AND EMERGENCY CONSIDERATION, THE COURT MAY ACT EXPEDITIOUSLY ON THIS MATTER. IF THE COURT ALLOWS A SHORTER RESPONSE TIME THAN TWENTY-ONE DAYS, YOU MUST RESPOND WITHIN THAT TIME. IF THE COURT SETS AN EMERGENCY HEARING BEFORE THE REONSE TIME WILL EXPIRE, ONLY ATTENDANCE AT THE HEARING IS NECESSARY TO PRESERVE YOUR RIGHTS. IF AN EMERGENCY HEARING IS NOT SET, YOU MUST RESPOND BEFORE THE RESPONSE TIME EXPIRES.

IF A RESPONSE IS FILED BY DEBTOR OR ANY PARTIES IN INTEREST, A HEARING WILL BE SET ON THIS MOTION FOR **2:00 pm on Mon, Jan 25, 2010**. BEFORE THE U.S. BANKRUPTCY JUDGE AT THE UNITED STATES BANKRUPTCY COURT LOCATED AT:

US Bankruptcy Court, 1133 N. Shoreline Blvd., 2nd Floor, Corpus Christi, TX 78401

THIS CASE WILL BE DISMISSED TWENTY-ONE (21) DAYS AFTER THIS MOTION IS FILED - WITHOUT NOTICE AND HEARING - UNLESS PRIOR TO THE ENTRY OF THE DISMISSAL ORDER, THE DEBTOR FILED A RESPONSE TO THIS MOTION WITH THE U.S. BANKRUPTCY CLERK'S OFFICE LOCATED AT:

US Bankruptcy Court, 1133 N. Shoreline Blvd., 2nd Floor, Corpus Christi, TX 78401

- A. REQUESTING A HEARING AND
- B. STATING THE SPECIFIC REASON WHERIN THE TRUSTEE IS IN ERROR; OR
- C. (1) CERTIFYING THAT THE DEBTORS have BROUGHT ALL PAYMENTS CURRENT PRIOR TO FILING THE RESPONSE; OR
- (2) CERTIFYING THAT THE DEBTORS have FILED A MOTION TO MODIFY THE PLAN PRIOR TO (OR CONTEMPORANEOUS WITH) THE FILING OF THE RESPONSE.

COMES NOW Cindy Boudloche, Trustee, and moves the Court for an Order dismissing the Debtors' case as follows:

1. Debtors are more than fifteen (15) days delinquent on Chapter 13 plan payments . At the time this motion was filed, Debtors were \$2,500.00 in arrears under the proposed plan.

2. Debtors have caused unreasonable delay that is prejudicial to creditors (11 U.S.C. Sec 1307 (c)(1)) and specifically, Debtors have failed to:
- a) Timely file necessary amendments to his/her Chapter 13 Plan and/or schedules;
 - b) Propose a feasible plan;
 - c) File and/or provide a copy to the Trustee of federal income tax returns or affidavit stating that they are not required to file tax returns;
 - d) Provide the Trustee with a business budget, monthly operating reports and/or Sworn Testimony relative to the operation of the Debtor's business;

WHEREFORE, the Trustee prays the Court to DISMISS this case, and further order that all funds paid to the Trustee on behalf of the Debtors hererin be paid to creditors in accordance with the Debtors' Chapter 13 Plan or schedules per the Trustee's normal disbursement procedures.

Dated: Tue, Dec 22, 2009

Respectfully Submitted:

/s/ Cindy Boudloche

CINDY BOUDLOCHE, Trustee
555 N. Carancahua Ste 600
Corpus Christi, TX 78478
(361) 883-5786
(361) 888-4126

CERTIFICATE OF SERVICE

I certify that on or about Tue, Dec 22, 2009, a copy of the foregoing Motion to Dismiss was delivered to BNC to be served electronically on or by United States mail to Debtors, Debtors' Counsel and all parties on the Court's mailing matrix.

/s/ Cindy Boudloche

Cindy Boudloche, Trustee